

**REMARKS**

This Amendment responds to the Office Action mailed November 17, 2005. Claims 1, 4-13, 16, 17 and 19-24 remain pending in the application prior to this amendment and stand rejected. Claims 1 and 17 have been amended, claim 9 has been canceled, and new claim 26 has been added.

Applicants would like to thank the Examiner Phi Dieu Tran A, for the telephone interview with Applicants' representative, David W. Dorton, on January 24, 2006. Proposed amendments to the claims were discussed, as described more fully below. Applicants respectfully request reconsideration in view of the amendments and the following remarks.

**Claims Rejected Under 35 U.S.C §112**

Claim 9 stands rejected under 35 U.S.C. §112, second paragraph. Claim 9 has been canceled by this amendment. Accordingly, Applicants respectfully request that the rejection of claim 9 under 35 U.S.C. §112 be withdrawn.

**Claims Rejected Under 35 U.S.C. §103**

Claims 1, 4-13, 16, 17 and 19-24 stand rejected under 35 U.S. C. §103(a) as being unpatentable over U.S. Patent No. 6,089,522 to Haslem et al., either alone or in combination with U.S. Patent No. 6,732,484 to Sotelo et al. or U.S. Patent No. 5,729,949 to Hartzheim. Claims 1 and 17 are the only independent claims of this rejected group and are directed to chairs for supporting and spacing concrete reinforcing members. Claims 1 and 17 have been amended herein to recite that each notch of the receiving area of the chair "comprises a bearing surface defined by a lip

extending inwardly from the outer surface such that the bearing surface is cantilevered beyond the inner surface". Support for these amendments can be found in the originally filed Application at page 7, lines 20-23, and with reference to claim 9 and the figures. Accordingly, Applicants assert that no new matter has been added by these amendments. Claim 9 has been canceled accordingly.

Applicants assert that the references of record do not teach or suggest a chair for supporting and spacing concrete reinforcing members having the claimed notch structure. Accordingly, Applicants respectfully request early an early and favorable indication of allowance for amended claims 1 and 17.

Claims 4-8, 10-13 and 16 each depend from independent claim 1, and claims 19-24 each depend from independent claim 17. Accordingly, claims 4-8, 10-13, 16 and 19-24 are in condition for allowance for at least the reasons stated above for claims 1 and 17. For at least these reasons, Applicants respectfully request that the rejection of claims 4-8, 10-13, 16 and 19-24 under 35 U.S.C. §103(a) be withdrawn.

#### **New Claim**

New claim 26 has been added by this amendment. Claim 26 depends from claim 1 and further recites that the chair comprises "a plurality of ribs on the outer surface to facilitate separating the chair from a stack". New claim 26 therefore incorporates language which has been canceled from claim 1 by this amendment. Accordingly, Applicants assert that no new matter has been added by new claim 26. Applicants further assert that claim 26 is in condition for allowance for at least the reasons stated

above for claim 1, and an early and favorable indication of allowance is respectfully solicited.

**Conclusion**

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any issue requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants are of the opinion that no additional fee is due as a result of this amendment. If any charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: /David W. Dorton/  
David W. Dorton, Reg. No. 51,625

2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202  
(513) 241-2324 (voice)  
(513) 241-6234 (facsimile)